

## MR. AND MRS. FRANK HOLEHAN

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OCTOBER 15 (legislative day, OCTOBER 12), 1943.—Ordered to be printed

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Mr. ELLENDER, from the Committee on Claims, submitted the following

## REPORT

[To accompany S. 962]

The Committee on Claims, to whom was referred the bill (S. 962) for the relief of Mr. and Mrs. Frank Holehan, the Buffalo Insurance Co., and the Miller Insurance Co., having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

Page 1, line 5 strike out "(1)".

Page 1, line 6, after the dollar sign, insert "3,190.21".

Page 1, line 11, after the word "damage", change comma to a colon and strike out the rest of that line down to and including the period at the end of line 6, page 2.

Page 1, line 6, after the aforesaid colon, insert:

: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

The title of the bill shall be amended to read:

A bill for the relief of Mr. and Mrs. Frank Holehan.

The purpose of the proposed legislation is to pay to Mr. and Mrs. Frank Holehan, of Los Angeles, Calif., the sum of \$3,106.21 in full satisfaction of their claims against the United States for damage to certain property owned by them, which resulted when a United States Navy plane crashed into such property on November 25, 1942, and for loss of rent from such property as a result of such damage.

## STATEMENT OF FACTS

According to the facts contained in the reports of the Department of the Navy, dated March 19, 1943, and June 1, 1943, addressed to Hon. Sheridan Downey, United States Senator, and Hon. Allen J. Ellender, chairman of this committee, respectively, a United States Navy airplane, on an authorized flight, crashed from a stall at low altitude into the house of Mr. and Mrs. Holehan, located at 1039 West One Hundred and Sixth Street, Los Angeles, Calif. The airplane and house caught fire, which spread to and damaged adjoining property belonging to claimants, located at 1035 and 1031 West One Hundred and Sixth Street. This matter was the subject of a Navy board of investigation. The Navy Department recommends that Mr. and Mrs. Holehan be paid the sum of \$2,854.21 (plus the lost rent at \$28 per month), itemized as follows:

Replacement value of damaged appurtenances situated in the yards to the rear of the premises located at 1039, 1035, and 1031-----	\$671. 05
Replacement value of destroyed furniture and estimated cost of repairs to damaged furniture, etc., located at 1039, which was leased fully furnished-----	279. 28
Doctor bills incurred by Mrs. Holehan for personal treatment for nervous shock suffered as a result of the accident-----	15. 00
Estimated cost of repairing house at 1039-----	1, 832. 88
Loss of rental on 1035 during period of repairs, 2 months at \$28 per month-----	56. 00
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Loss of rental on 1039, at \$28 per month, for 1 year-----	2, 854. 21 336. 00
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Total-----	3, 190. 21

It appears that Mr. and Mrs. Holehan resided at 1031 West One Hundred and Sixth Street and rented their property located at 1035 and 1039. It also appears from the Navy report that only a comparatively small portion of the loss was covered by insurance. A claim, totaling \$2,854.21, was submitted by Mr. and Mrs. Holehan to the commanding officer, naval air station, Terminal Island, which agreed fairly well with the estimate of the damage made by a naval board of investigation, but did not include the loss of rental on the house located at 1039. The claim submitted by Mr. and Mrs. Holehan is the loss sustained by them after deducting payments made by the insurance companies. The Navy Department considers the claim of Mr. and Mrs. Holehan, the Buffalo Insurance Co., and the Miller Insurance Co. meritorious.

After careful consideration of the evidence submitted, your committee feel that the accident and resulting damage occurred through no negligence on the part of Mr. and Mrs. Holehan, and recommend that they be allowed the sum of \$3,190.21, as above itemized, in full satisfaction of their claim.

It is the belief of the committee, however, that the claims of the Buffalo Insurance Co. and the Miller Insurance Co. are not meritorious or justified, in that these companies collect premiums for the risks they took in insuring these premises. Therefore, the committee have amended the bill to exclude the claims of these companies, and recommend favorable consideration of the proposed legislation. Appended hereto is the report of the Navy Department.

NAVY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, June 1, 1943.

HON. ALLEN J. ELLENDER,  
*Chairman, Committee on Claims*  
*United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Reference is made to bill (S. 962) for the relief of Mr. and Mrs. Frank Holehan, the Buffalo Insurance Co., and the Miller Insurance Co., and your letter dated April 9, 1943, requesting a report relating to the matter, together with an opinion as to its merits.

The purpose of the bill is to authorize the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Mr. and Mrs. Frank Holehan of Los Angeles, Calif., an unstated sum, to the Buffalo Insurance Co. the sum of \$479.91, and to the Miller Insurance Co. the sum of \$307.26, in full satisfaction of their respective claims against the United States for damage resulting from the crash of a Navy airplane at Los Angeles on November 25, 1942.

The records of the Department disclose that on November 25, 1942, United States Navy airplane SNV-1 No. 12842 was on an authorized flight from the United States naval air station at Terminal Island, Calif. When the airplane was over Los Angeles it crashed from a stall at low altitude into the house of Mr. and Mrs. Holehan, located at 1039 West One Hundred and Sixth Street. The airplane and house caught fire, which spread to and damaged adjoining property belonging to Mr. and Mrs. Holehan located at 1035 and 1031 West One Hundred and Sixth Street. The cause of the stall is not known. The pilot and a passenger were killed and the airplane was totally wrecked.

It appears that Mr. and Mrs. Holehan resided at 1031 West One Hundred and Sixth Street and rented their property located at 1035 and 1039. It also appears that only a comparatively small portion of the loss which they sustained was covered by insurance. A claim totaling \$2,854.21, was submitted by Mrs. Holehan to the commanding officer, naval air station, Terminal Island. This sum presumably represented the uninsured portion of the physical damages to the property and included a doctor's bill of \$15, for treatment of Mrs. Holehan for shock, and 2 months' loss of rental on the house at 1035 West One hundred and Sixth Street during the repair period, amounting to \$56, but no item for loss of rental on the house located at 1039. The amount of the claim agreed fairly well with the estimate of the damage made by a naval board of investigation convened to investigate the crash.

A claim was also presented by the Buffalo Insurance Co., in the sum of \$479.91, which company contended that it had paid Mr. and Mrs. Holehan that amount on account of their losses and were subrogated to that extent. No claim has been received from the Miller Insurance Co., which apparently is now asserting a subrogated claim.

Copies of all papers available to the Navy Department relating to the claim of Mr. and Mrs. Holehan, and the Damage to Property Report, prepared by the senior member of the board of investigation convened to investigate the crash, were transmitted to Senator Downey on March 19, 1943, and it is assumed that this information is available to the Committee on Claims.

The claims here involved cannot be settled by the Secretary of the Navy under any existing appropriation for the Navy or the naval service.

Subject to the qualification that the Navy Department lacks accurate information as to the exact monetary damages suffered by Mr. and Mrs. Holehan, the Buffalo Insurance Co. and the Miller Insurance Co. as a result of the crash of of Navy airplane SNV-1 No. 12842, bill S. 962 is considered meritorious.

The Navy Department has been advised by the Bureau of the Budget that there would be no objection to the submission of this report to the committee.

Very truly yours,

RALPH A. BARD,  
*Assistant Secretary of the Navy.*

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